XII-189 / (Jail)
C. J. P. R. 11/94/2,000

CF0000059935

CA 1681/96 (2)

APPEAL OF PRISONER

No. 297 Name सूनाराम Division Bench (Criminal)

Father's name गोंडूराय सतनामी

Residence गाम चौकी बड़ा Age 40 वर्ष

Sentenced to आजीवन कारावास On 3-8-96

Under section 302 भा0द0वि0 by श्री जी0डी0 मिश्रा अपर सत्र न्या0 महासमुन्द

It is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1 Date of Application for copy of Judgement ... जेल द्वारा अपीलार्थ में प्रस्तुत

2 Date on which copy received 14/9/96

3 Date on which Appeal sent 14/9/96

4 Whether the prisoner wishes to be represented or not – Yes / No

No. 297 Name सूनाराम S/o गोंडूराय

Confined in S4B Jail Mahasamund

No. 1130 Dated 14-9 199 6

Forwarded to the CHIEF JUDICIAL MAGISTRATE माननीय पैनलीयक उच्च न्यायालय जबलपुर (म.प्र.)

togather which a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

Regd

Superintendent

Jail

Date of receipt in ..... office .....

Date of receipt record to accompany the .....

Memo of Appeal to the Appellate court .....

High Court of Madhya Pradesh
JABALPUR
Rec. No. 531
Deputy Clerk
High Court, Jabalpur

No ..... Dated 2 199

Forwarded to the .....

Date of receipt in Appellate Court .....

(P. T. O.)

XI-HC-22

(14)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.App.No.1681/96 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench: -

Hon'ble Mr. L.C. Bhadoo and
Hon'ble Mr. Dhirendra Mishra, JJ.

9-3-2006

Mrs. Kiran Jain, counsel for the appellant.

Mr. U.N.S. Deo, Additional Public Prosecutor with Mr. M.P.S. Bhatia, Panel Lawyer for the State/respondent.

Oral judgment dictated on *Dais*.

Per L.C. Bhadoo, J: -

By this appeal under Section 374 (2) of the Cr.P.C. accused/appellant Punaram has questioned the legality and correctness of the judgment of conviction and order of sentence dated 3rd August, 1996, passed by the Additional Sessions Judge, Mahasamund, in Sessions Trial No.298/94, whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of offence under Section 302 of the I.P.C., sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default of payment of fine to further undergo R.I. for three months.

The case of the prosecution, in brief, is that on 28.3.1994 accused Punaram himself gave the merg intimation (Ex.P-5) in the police station Tumgaon to the effect that his daughter-in-law Santra Bai used to go frequently to her maternal place and last year she went to her maternal place and did not return for two months, therefore, they went there and brought her back. Thereafter, he went to his in-laws place i.e. Village Achola to earn his livelihood, where

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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the father of his daughter-in-law came and on that day a dish of fish was prepared but same was not given to him for eating, on which he felt insulted. On the fateful day, he sent his son Reshkumar to village Chowkbeda to bring utensils which were pledged and in the afternoon he took his daughter-in-law Santra Bai with him towards Limhakhar on the pretext of bringing wood. There he attacked Santra Bai with pickaxe 2-3 times and committed her murder. He produced the weapon of offence pickaxe also. Based on this merg intimation, F.I.R. (Ex.P-6) was registered by the Investigating Officer Shri R.L. Chouhan (PW-7) for commission of offence punishable under Section 302 of the I.P.C. and took up the investigation. He went to the place of occurrence, at the instance of accused, the dead body of Santra Bai was located and taken into possession under Ex.P-2 and prepared the Panchnama (Ex.P-1) of the dead body of Santra Bai. Weapon of offence i.e. pickaxe and clothes of accused were also taken into possession under Ex.P-4. Site Plan (Ex.P-7) of the place from where the body of Santra Bai was recovered was prepared. Body of Santra Bai was sent for postmortem examination to Government Hospital, Mahasamund under Ex.P-8A, where Dr. N.K. Mandape (PW-11) conducted the postmortem on the body of Santra Bai and prepared the postmortem report Ex.P-8. Recovered blood stained articles were sent for chemical examination to Forensic Science Laboratory, Raipur from where report Ex.P-11 along with the report of Serologist has received.

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After completion of investigation, charge sheet was filed in the Court of learned Judicial Magistrate, First Class, Mahasamund, for commission of offence under Section 302 of the I.P.C. against the accused, who in turn committed the case to learned Sessions Judge, Raipur from where learned Additional Sessions Judge, Mahasamund received the case on transfer for trial.

The prosecution in order to establish the charge against the accused examined as many as eleven witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the prosecution evidence appearing against him and stated that he is innocent and has been falsely implicated in the crime.

Learned Additional Sessions Judge after hearing the arguments of Additional Public Prosecutor and counsel for the accused, convicted & sentenced the accused in the manner as mentioned in Para 1 of this judgment.

We have heard Mrs. Jain, learned counsel for the appellant and Mr. U.N.S. Deo, learned Additional Public Prosecutor with Mr. M.P.S. Bhatia, P.L. on behalf of the State/respondent.

Homicidal death of Santra Bai is not in dispute.

As far as involvement of the accused/appellant in committing the murder of Santra Bai is concerned, there is no ocular or direct evidence in this case, the whole case rests on the circumstantial evidence and as per settled law, the Court is required to ascertain from the facts before resting the conviction based on the circumstantial evidence that the circumstances from which the conclusion of guilt is to be drawn have not only to be fully established

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —५—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

but also that all the circumstances so established should be of a conclusive nature and consistent only with the hypothesis of the guilt of the accused. Those circumstances should not be capable of being explained by any other hypothesis except the guilt of the accused and the chain of the evidence must be so complete as not to leave any reasonable ground for the belief consistent with the innocence of the accused. It needs no reminder that legally established circumstances and not merely indignation of the court can form the basis of conviction and the more serious the crime, the greater should be the care taken to scrutinize the evidence lest suspicion takes the place of proof.

The prosecution has tried to prove the crime against the accused on the following circumstances: -

1. that, the body of deceased Santra Bai was recovered at the instance of accused; and
2. that, the weapon of offence, pickaxe was recovered from the accused and the same was found stained with human blood.

First circumstance: -

As far as this circumstance is concerned, the accused/appellant himself appeared in the Police Station Tumgaon and gave the merg intimation (Ex.P-5) in which he, apart from other things, has stated that the body of Santra Bai is lying in the agricultural field and he can get the same recovered. Based on this information, the Investigating Officer Shri R.L. Chouhan (PW-7) lodged the report Ex.P-6, left for the scene of occurrence and recovered the body of Santra Bai under Ex.P-2 from the agricultural

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

field of Bukhau Sahu. PW-7 has stated in his evidence that accused gave the information Ex.P-5 on which he registered the case under Ex.P-6 and at that time Dadhibal (PW-2) & Narayan (PW-3) were present. In Para-3 of evidence, this witness has stated that at the instance of the accused they started searching the body, thereafter the body was recovered and same was taken into possession under Ex.P-2, which bears his signatures and of the accused, Dadhibal, Narayan, Johanlal, Suresh & Santram. PW-1 Suresh has stated that Panchanama (Ex.P-1) of the body was prepared in his presence and body was also recovered in his presence under Ex.P-2, which bears his signature. PW-2 Dadhibal has also corroborated the above evidence and stated that Ex.P-1 & Ex.P-2 were prepared in his presence, body was recovered in his presence and thereafter, the same was sent for postmortem examination. PW-3 Narayan has also corroborated the above evidence.

Therefore, from the above evidence it is established that the body of Santra Bai was recovered at the instance of the accused/appellant.

Learned counsel for the accused/appellant argued that as the body of Santra Bai was recovered from an agricultural land, therefore, recovery cannot be believed.

But, we do not find any substance in this argument, for the reasons that the accused immediately, after committing the crime, went to the Police Station Tumgaon and disclosed that the body is lying in the agricultural field of Bukhau and the Investigating Officer immediately after registering the case left for the scene of occurrence

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and recovered the body of Santra Bai at the instance of the accused. Therefore, it cannot be said that body of Santra Bai was seen by somebody else and through them the accused came to know about the location of the body that the same was lying in the agricultural field of Bukhau. Moreover, the conduct of the accused is admissible under Section 8 of the Indian Evidence Act as the accused gave the information regarding the place of occurrence where the body was lying and the same was recovered at his instance.

Second circumstance: -

As far as this circumstance is concerned, the accused himself produced the weapon of offence in the Police Station, same was taken into possession under Ex.P-3 and that has been proved by the Investigating Officer (PW-7), who has stated in his evidence that accused produced the pickaxe stained with blood in the police station and the same was taken into possession under Ex.P-3. PW-2 Dadhibal has also stated that pickaxe in question was taken into possession on production by the accused under Ex.P-3, which bears his signature. PW-3 Narayan has also proved this fact. Therefore, the recovery of pickaxe from the accused, on being produced by him, is established. The pickaxe in question was sent for chemical examination to Forensic Science Laboratory, Raipur where it was examined and as per FSL report Ex.P-11 the pickaxe, which was recovered from the possession of the accused, was stained with blood and moreover, as per serologist report same was found stained with human blood.

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	In view of the forgoing discussion, both the circumstances stand proved against the accused/appellant, as the body of Santra Bai was recovered at the instance of accused, the weapon of offence, pickaxe was also recovered from the possession of the accused and same was found stained with human blood. Therefore, from the above evidence it is established that the accused was the author of crime in question and there is no possibility of committing the crime in question by anybody else. In the result, we do not find any illegality or infirmity in the judgment of trial court, the appeal is devoid of any merit, same is liable to be dismissed and it is accordingly, dismissed. **Sd/-** **L.C. Bhadoo** **Judge** **Sd/-** **Dhirendra Mishra** **Judge**	

Roshan/

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